

## **REMARKS**

Claims 1, 2, and 4-9 are pending in this application. Claim 1 is amended by incorporation of the subject matter of dependent claim 3. Claim 3 is hereby cancelled without prejudice to or disclaimer of the subject matter contained therein.

## **INFORMATION DISCLOSURE STATEMENT**

Applicants hereby respectfully that the Office recant its statement that “the information disclosure statement filed March 17, 2004 fails to comply with the provisions of 37 C.F.R. § 1.98 and MPEP 609 because copies of the five documents cited on the fifth page of the IDS have not been submitted.” Office Action at p. 2. This statement is incorrect. The information disclosure statement filed March 17, 2004 fully complied with the provisions of 37 C.F.R. § 1.98 and MPEP 609. Specifically, Applicants direct the Office’s attention to 37 C.F.R. § 1.98(d):

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

The Office appears to argue that the information disclosure statement submitted in US Serial No. 09/580,203 on October 13, 2000 failed to comply with paragraphs (a) through (c) of 37 C.F.R. § 1.98 because, as of September 23, 2004 the USPTO had LOST its copies of those documents. This argument cannot hold water.

The Applicants were excused from the obligation to submit a copy of the information identified on their IDS filed March 17, 2004 specifically because they met the requirements of both 1.98(d)(1) and (d)(2). If the USPTO has lost its copy of information filed by the Applicants in 2000, then the Applicants are willing to help the USPTO reconstruct its files, however, the Applicants are not willing to accept erroneous and damaging statements concerning the Applicants compliance with Federal Regulations.

As a courtesy to the Examiner, attached as an appendix herewith are: 1) a copy of an initialed and signed PTO 1449 form indicating that the documents in question were filed at the USPTO on October 13, 2000 and considered by Examiner Laura A. Grier as of April 19, 2002 (this form was attached to the office action mailed April 25, 2002 in grandparent US Serial No. 09/580,203); and 2) copies of the five documents as-filed on October 13, 2000.

Applicants request that the Office recant its erroneous statement concerning Applicants compliance with 37 C.F.R. § 1.98.

Applicants request that the information cited on the fifth page of the IDS filed March 17, 2004 be expressly considered during the prosecution of this application and that these references be made of record therein and appear in the “references cited” on any patent to issue therefrom.

No fees are due as a result of the courtesy submission of reconstruction copies of the references attached hereto as Applicants fully complied with their duties under 37 C.F.R. § 1.98 on October 13, 2000 and on March 17, 2004.

## **CLAIM REJECTIONS**

The Office Action rejects claim 3 under 35 U.S.C. § 102(e) as being anticipated by Klayman et al (USPN 5,912,976) (hereinafter “Klayman ‘976”). Claim 3 is cancelled and accordingly the rejection is moot.

The Office Action rejects claims 1, 2, and 4-8 under 35 U.S.C. § 102(e) as being anticipated by Klayman ‘976. Klayman ‘976 relates to an audio enhancement system and method that receives a group of multi-channel audio signals and provides a simulated surround sound environment through playback of only two output signals. The multi-channel audio signals comprise a pair of front signals and a pair of rear signals. The front and rear signals are modified in pairs by separating an ambient component of each pair of signals from a direct component and processing at least some of the components with a head-related transfer function. The individual audio signal components are then selectively combined with the original audio signals to form two enhanced output signals for generating a surround sound experience upon playback. The selective combination of Klayman ‘976 occurs in its left mixer 280 and right mixer 284. Col. 9:1-col. 10:7. Each of these mixers is understood to be a combiner circuit that simply combines its respective inputs into a single output. See, e.g., Klayman ‘976 claim 1. The

mixers of Klayman '976 do not transform their inputs to outputs according to standardized transformation coefficients.

Klayman '976 does not teach at least "each gain stage having a gain adjusted independently of the gain of the other N-1 gain stages" as recited in independent claim 1. The gain stages identified by the Office are 252, 254, 256, 260, 262, 336, 290, 292, 258, 330, and 334. Office Action at p. 3. At least 252, 254, 256, 260, and 262 cannot be adjusted independently of the other gain stages. Accordingly, the 35 U.S.C. § 102(e) rejection to independent claim 1 should be withdrawn.

Klayman '976 does not teach at least "a circuit that downmixes the outputs of the N parallel gain stages to M channels" as recited in independent claim 1. Klayman '976 does not teach at least "downmixing the X adjusted spatial channels to M channels" as recited in independent claim 6. As used in the pending application and by those of skill in the art, the term "downmixing" may refer, for example, to a technique used to transform 5.1 decoded channels into a reduced number of channels with high audio quality. Consumer electronics equipment implements known standards, such as Dolby, for encoding and decoding audio. The standards specify, for example, how to transform 5 or 6 audio channels into, for example, 4, 3, 2, or 1 audio channels. See Application FIGS. 7 & 8 and accompanying text. For example, FIG. 7 of the pending application depicts a Dolby Digital prior art encoder and decoder with standardized downmix coefficients. See ¶ 0055. FIG. 7 is just one non-limiting example of a transformation according to standardized transformation coefficients. As illustrated in the embodiment of FIG. 7, "downmixing" may incorporate addition of various combinations of attenuated or non-attenuated audio signal components. As illustrated in FIG. 7, the components are not simply mixed (*i.e.*, combined as in Klayman '976) but are transformed using standardized transformations and applying standardized transformation coefficients. Downmixing may also incorporate dynamic changes to the transformation coefficients. See Application at ¶ 55. Of course, the term "downmixing" is not limited in its application to only 5.1 audio format. Thus, with a clarified reading of the claim term in light of the specification, Klayman '976 does not teach at least "a circuit that downmixes the outputs of the N parallel gain stages to M channels"

as recited in independent claim 1 or “downmixing the X adjusted spatial channels to M channels” as recited in independent claim 6. Accordingly, the 35 U.S.C. § 102(e) rejection to independent claims 1 and 6 should be withdrawn.

For the reasons set forth above, independent claims 1 and 6 define patentable subject matter. As independent claims 1 and 6 define patentable subject matter it stands to reason that dependent claims 2, 4, 5, and 7-8, which depend from claims 1 and 6, also define patentable subject matter. Accordingly, the 35 U.S.C. § 102(e) rejections of claims 1, 2, and 4-8 should be withdrawn.

The Office Action rejects claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Klayman ‘976 and further in view of Klayman (USPN 4,748,669) (hereinafter Klayman ‘669). Claim 9 depends indirectly from claim 6. As stated above, Klayman ‘976 does not teach at least “downmixing the X adjusted spatial channels to M channels” as recited in independent claim 6. Klayman ‘669 does not cure at least this deficiency of claim 6.

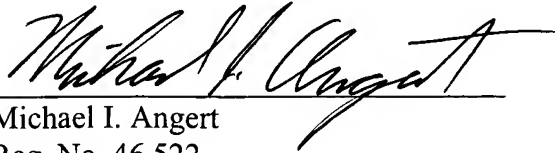
Klayman ‘669 relates to a stereo enhancement system that purports to provide a wider stereo image and listening area than previously known, and further provides perspective correction for achieving correct stereo sound perspective with speakers at different locations and with headphones. The Office Action does not assert that Klayman ‘669 teaches at least “downmixing the X adjusted spatial channels to M channels” as recited in dependant claim 9 (as claim 9 depends from independent claim 6). In fact, Klayman ‘669 fails to teach at least “downmixing the X adjusted spatial channels to M channels” and accordingly the 35 U.S.C. § 103(a) rejection of this claim should be withdrawn.

The claims are allowable over the prior art for the reasons set forth above. A Notice to that effect is respectfully requested.

The Office is hereby authorized to charge all required fees, including all required claim fees under 37 C.F.R. §1.16 and/or all required extension of time fees under 37 C.F.R. §1.17, or credit any overpayments to Deposit Account 11-0600.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael I. Angert", written over a horizontal line.

Michael I. Angert  
Reg. No. 46,522

Date: February 23, 2005

Kenyon & Kenyon  
1500 K Street, NW, Suite 700  
Washington, D.C. 20005-1257  
Tel: (202) 220-4393  
Fax: (202) 220-4201

Attachment: Appendix as described hereinabove